

REMARKS

This responds to the Office Action dated March 2, 2007.

Claims 11, 14, and 15 are amended, and claims 1-10 are canceled. Claims 11-12 and 14-20 are now pending in this application.

§102 and §103 Rejection of the Claims

Claims 1-2, 7, 10-12, 17 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Darvish et al. (U.S. Patent No. 6,292,693). Claims 4, 6, 14 and 16 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Darvish et al. (U.S. Patent No. 6,292,693).

Claims 5 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Darvish et al. (U.S. Patent No. 6,292,693) in view of Burnes (U.S. 2004/0220636). Claims 8 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Darvish et al. (U.S. Patent No. 6,292,693) in view of Zhu et al. (U.S. 2002/020306). Claims 9 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Darvish et al. (U.S. Patent No. 6,292,693) in view of Ding (U.S. 2002/0062139).

Applicant has requested cancellation of claims 1-10 and requested amendment of claims 11, 14, and 15 herein. As explained below, Applicant believes that the requested amendments render claims 11-12 and 14-20 patentable over the prior art of record. The rejections are traversed for the record, however, and applicant reserves the right to prosecute claims similar or identical to the claims cancelled and/or amended herein in a subsequent continuation application.

As amended herein, claim 11 recites a method that includes the steps of implanting a cardiac pacing device having a plurality of pacing channels in a patient so as to allow paces to be delivered to a plurality of ventricular sites and configuring the cardiac pacing device to deliver cardiac function therapy that effects reversal of ventricular remodeling by delivering pacing pulses to one or more stressed or hypertrophied ventricular regions in a manner that pre-excites those region(s) relative to other ventricular regions. The method further includes the steps of: 1) configuring the cardiac pacing device to assess the patient's cardiac function by measuring a

physiological variable affected by reversal of remodeling, and 2) configuring the cardiac pacing device to temporarily suspend delivery of cardiac function therapy, assess the patient's cardiac function while no cardiac function therapy is being delivered, and either cease or continue the delivery of cardiac function therapy based upon the cardiac function assessment. Delivering pacing therapy in a manner that effects reversal of cardiac remodeling and controlling the delivery of such pacing in accordance with a cardiac function assessment have thus been positively recited in terms of a method. Whether or not a prior art device such as described in the Darvish reference could possibly be implanted and configured to perform the method recited by claim 1 is not relevant to its patentability without a teaching or suggestion for doing so. Although, the Darvish reference appears to teach the delivery of multi-site ventricular pacing and ETC in a graduated manner dependent upon monitoring of hemodynamic parameters, the pacing therapy and ETC are delivered in a manner that is only expected to improve cardiac function. This is in contrast to the pacing therapy recited by claim 1 in which a stressed or hypertrophied ventricular site is pre-excited relative to the rest of the ventricle. Such pacing de-stresses the stressed or hypertrophied region to effect reversal of cardiac remodeling and may or may not improve cardiac function while it is being delivered. The cardiac function assessment is then performed, not to ascertain whether the pacing therapy is needed to improve cardiac function while it is being applied as in Darvish, but rather to determine whether or not the desired reversal of cardiac remodeling has been achieved. Applicant thus does not believe there is any teaching or suggestion in the prior art of record for the limitations recited by claim 11 as amended. Dependent claims 12 and 14-20 recite additional limitations to the patentable subject matter recited by claim 11, which limitations are asserted to be neither taught nor suggested by the prior art in that context.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6912 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,


BRUCE H. KENKNIGHT ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(847) 432-7302

Date 5-2-07

By


J. Kevin Parker
Reg. No. 33,024

CERTIFICATE UNDER 37 CFR 1.8. The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22316-1450 on this 23 day of May 2007.


Name


Signature